App. F. IX-4

Previous References

193 (1931) Laws

File No. 88-30

Serial Nos. 1-3

Later References

Laws 88-30(45)
Laws 90-32-1-4

(12)

General and Revenue Secretariat.

Serial Nos. Three

Part B for Feb 31

SUBJECT.

Appeal against acquittal in CC 66 of 30-31 on the file of the 2nd Class Sub Magte. Tanjore

---

3) To The Govt Advt
Court of Js
Ref 4151-2 dy 13/1/31
Sanction the above

Advt 6/2/31

G. R. S. APP F. III—1] 1930.

GENERAL AND REVENUE SECRETARIAT.

(Law)

NOTES.

File No. 88-30

FILE HEADING.

Appeal against acquittal in Tiger Skin Case of Biner

FROM The Chief Conservator of Forests

No. 197-1234-30 Dated 24.12.30 Received 27.12.30

Diary No. 3208	Enclos.	Spare copies	Serial No.

BRIEF ABSTRACT OF LETTER.

Submitting the entire records re: the Tiger Skin Case of Biner, and soliciting sanction of Govt to file a revision petition to the H.C.

NOTES AND ORDERS.

1) This Case in which the ownership to the tiger skin in Hekaval, was decided by the Spl. Magistrate Tarikere, in Pri. Cr. Case no. 66 of 1930-31. Facts of the Case run as follows:-

2) One Rama Rao filed a petition in the Spl. II class Mags. Court praying for the return

NOTES—First Sheet.

WD 01683—GPB—5,000—3-5-29

Serial No.

of a gun and the tiger skin which were seized by the Range officer of Kadur in connection with the forest offence alleged to have been committed by the petitioner Rama Rao while allowing his cattle to graze in Balligamur Kaval, suddenly came across with a tiger, and shot at it by his gun in self defence, as a result of which the wild animal died on the spot. of course no difficulty was felt in returning the gun as it was used by Rama Rao under proper license. Forest Range Prosecuting Inspector is a Counterpetitioner in the case, claiming for the tiger skin, on the ground that the animal was killed on the Govt land hence the ownership belongs to the forest Dept. The law on the point seems to be that when a person kills a wild animal on the property of another the Carcass does not belong to the killer but to the proprietor of the property. on this ground it was argued by the Asst Forest prosecuting Inspector that the alleged tiger skin belongs to the Forest Dept since the tiger was actually killed in the state forest. The learned Magte however disagreeing with this view has returned the skin to the petitioner Ramarao

NOTE—Contn. Sheet.

WD 02553—G PB—50,000—8 7 30

Serial No.

on the ground that the tiger was killed on the gomal land of the village hence the ownership belongs to the petitioner being an inhabitant of the village.

3) The Conservator of Forests of Shimoga Division has however raised some important legal points on the judgment delivered in this Case, and requests the sanction of Govt to file a revision petn in the H. Court. The Govt Advocate may perhaps be Consulted as to the advisability of filing an appeal

TSD
30/12

4) The order of the magistrate is apparently under sec 524 Cr. P. Code, in which case an appeal lies to the Dt magistrate, Kadur, under sec 407, the period within which it is to be filed being 30 days from the date of the order. In this case the order was passed on 14th Nov 1930 & an appeal therefore appears to be barred by time.

The Govt Advocate will, if approved, be Consulted as to whether this is a case in which revision lies to the High Court.

Chief Secy.

DMe
31/12

YG
NM
31/12

Note—Contn. Sheet

WD 02328---GPB—10,000—22-4-30

3208

File No .of 192 | General and Revenue Secretariat.

Serial No.

5) Forwarded to the Govt Advocate with compliments for favour of opinion.
B.O.
Bhagavadas
for Legal R.T.Ler
to G.W.M, Law Dept
2/1/1931

H.O. 1452/31
8-2-1-31

7 No. 5.15/30.31
7 2.1.31.

Re-transmitted with compliments.

6) I have gone through the file and find that the Magistrate has ordered, under section 523 of the Criminal Procedure Code that the skin of the tiger killed should be handed over to the petitioner in the case. A revision lies to the High Court.

No 107-39/30-G.
8.1.1931

This view of the Magistrate.

7) 2. The entire finding of the Magistrate rests on the suggestion that Gomal land is not Government land and that any animal shot on such land cannot belong to Government. In view, however, of the fact that under Rule 2(d) of the Rules issued for the management of District Forests and other lands under section 35 of the Forest Regulation, land assigned as free grazing ~~xxxx~~ ground (i.e., gomal land) has been classed as land at the disposal of Government, the finding of the Magistrate does not appear to be correct. The right of the villagers over the gomal land for the purpose of grazing cattle is not incompatible with the ownership of the land remaining with the Government, or its management being vested in the Forest Department for

Note—Contn. Sheet

Serial No.

for purposes contemplated under the Forest Regulation. The decision of the Mysore High Court quoted by the Magistrate appears to have proceeded on a different ground. But it does not disturb the legal position that the ownership of the carcase vests in the proprietor of the land. - As a matter of fact, the learned Judges in that case appear to countenance the view put forth in Stephen's Digest of Criminal Law, ~~xxx~~ Article 231, which states that the dead body of a wild animal is the property of the person "on whose ground - the animal dies". (1 M.C.C.R., at page 25). In any case, the present decision is one that deserves to be tested in a ~~x~~ higher Court.

3. The Revision Petition should, if decided upon, be filed before the 14th instant.

K. Ramachandra Rao

Government Advocate.
8-1-1931.

H. 9) - Submitted for orders with a Draft G.O sanctioning the filing of a revn. petn as advised by the Govt Advr:

Chief Secy.

BNP
8/1

10) The view of the Magistrate that Gomal land is not the property of Govt is of course incorrect. Gomal lands, forest reserves etc are mere

NOTE—Contn. Sheet

WD 02553—50,000—GPB—8-7 30

-320 d

File No. of 193 | General and Revenue Secretariat

assignments of land under Section 39 of the Land Revenue Code which are revocable at the discretion of Govt whether it is worthwhile to take up the matter to the Chief Court for the sake of obtaining a ruling on this point has to be considered.

Secn Member
Shingh Secretary
12/1/31

A/L R
Please have the file in person & obtain orders today.
12/1

1) I doubt if it is worthwhile taking the matter to the High Court. I think however that all doubt would be removed by including in Secn. 2 (5) (a) the following viz:
"viz animal skins, tusks, horns and hoofs" omitting them from Sec. 2 (5) (6) (iii).
[redacted]
RS 12/1/31

3rd Member
2nd Member

3 Members present in station
12/1

2) The Mapla decision is clear in favour of Govt & there is no objn to the High Court being moved to set aside his order.
Amendment of the law in respect of the forfeiture which requires some consideration
Sec 12/1/31

4) Issue Notice to Govt Pleader & Submit to 3rd Member on this return
12/1

OFFICE OF THE SECOND MEMBER OF COUNCIL
12 JAN. 1931
No. 6.1.1

Govt Pleader
12/1

3575

320 Q

App° F. III—2]

General and Revenue Secretariat | File No. | of 193

Serial No.

2 G.O. No. P. 4157-2 Gen 88-Gen-2 dated 13th Jan'y 1931 sanctioning a revision petition to be filed in the H. Ct against the order passed in C.C. 66/30-31 by the Special Second class Magte Tankha (Tiger Skin case).

15) for perusal

3rd member through Secretary

15/1/31

16) Rtg 22/1/31.

17) 23/1

23/1

Letter No: 450 dated 9-1-31 from Govt Advocate stating that the Revn. Petn. was filed on the 18th.

3

Legis. for action re: para 11 & 12 supra

26/1.

The amendment proposed is of the Forest Regulation & the question has, under standing orders, to be considered in the administrative Branch viz Gen Branch. This may therefore be sent to that Branch for taking necessary extracts & returning the file.

28/1

28/1

Extracts taken and the file returned

2/2/31.

Gen! Secy to be ordered to await the decision of the H. Ct.

13

15/2/31

OFFICE OF THE THIRD MEMBER OF COUNCIL. 23 JAN. 1931 No. 4064

GENERAL DEPT. 4802 23 JAN. (illegible)

NOTE—Contn. Sheet.

7D 2553—G PB—50,000—8-7-30

3208 P 30

MYSORE FOREST DEPARTMENT.

IN REPLY REFER TO
No. 82-197-1234-30
ENCLO. one file

TEL. ADDRESS
"CHIEFCON."

OFFICE OF THE CHIEF CONSERVATOR OF FORESTS
IN MYSORE,
Bangalore, 24/12/1930.

88-30

FROM

B. V. RAMIENGAR, ESQ., B.A.,
Chief Conservator of Forests
in Mysore, Bangalore.

989
27/12-

To

P.Mahadeviah, Esq., B.A., B.L.
Law *Secretary to the Government*
of H. H. the Maharaja of Mysore,
Bangalore.

S i r,

In submitting herewith the entire file of records, ending with the Shimoga Conservator's letter No.256-800-30 dated 12th December 1930, regarding the Tiger Skin Case of Birur, I have the honour to state that for reasons noted by him, a revision petition to the High Court is necessary as the case under issue involves some important legal points; and concurring with his ~~x~~ (Conservator's) opinion, I beg to recommend that sanction of Government may kindly be obtain-ed to file a revision petition to the High Court and orders thereon communicated to me early.

The connected records may be kindly returned when done with.

I have the honour to be,

Sir,

Your most obedient servant,

B.V. Ramiengar

Chief Conservator of Forests.

TG/18-12-30

AS

(9

G.R.S. App. F VI G-2]

SUBJECT .....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( ) }
the *193* .

Date of issue 13/1/31

Signed by M. M. R.

May this be

(i) Printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Sec. Home

File No. 88-30

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Letter No: 197-1234-30 dated 24th Decr 1930, from the Chief Commr of Pls, in Mysore, Bangalore, forwarding the records connected with the Tiger skin case of Birur and recommending that in view

Order Thereon No. of the important points involved in the case the order sanction of Govt may be accorded to the filing of a revision petition in the High Court against the order dated 4th Septr 1930 passed in C.C. 66 of 30-31 by the Special second class magistrate

Jarikere-

order

J 4157-2 Records

Sanctioned - The Govt Advocate is requested to take steps in time to move the High Court in the matter and report the result of the action taken to Government in due course

9/11

Chief Secy

Dpl 8/11

To

1) The chief Commr of Pls

2) Govt Advocate with ~~Copy of~~ The entire file of the records sent with the letter of the Chief Commr read above

List of enclosure

Copied by

Examined by

WD 02560 --GPB --11,250 --2-7-30

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-

Letter No.197-1234-30 dated 24th December 1930, from the Chief Conservator of Forests in Mysore, Bangalore, forwarding the records connected with the Tiger Skin Case of Birur and recommending that in view of the important points involved in the case, sanction of Government may be accorded to the filing of ~~xx~~ a revision petition in the High Court against the order dated 14th September 1930 passed in C.C.66 of 30-31 by the Special Second Class Magistrate, Tarikere.

Order,No. 4157-2/Law

Dated, Bangalore 13 January 1931.

Sanctioned. The Government Advocate is requested to take steps in time to move the High Court in the matter and report the result of the action taken to Government in due course.

M. Saminga
for Chief Secretary to Government.

ISD

To

The Chief Conservator of Forests in Mysore.

The Government Advocate with the entire file of records sent with the letter of the Chief Conservator of Forests read above.

To

3575 p 30

In reply please refer to
No. 430

Tel. Address:—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore 16th January 1931

Law-88-30-3

From

M. Ramachandra Rao, Esq., B.A., B.L.,
Government Advocate in Mysore,
Bangalore.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
Law Department, Bangalore.

Sir,

Gen. Sec. 15/1

I have the honor to acknowledge receipt of Government Order No. R. 4151-2/Law. 88-30-2, dated the 13th - January 1931 (received on 15-1-1931) authorising the - filing of a Revision Petition to the High Court against the order passed by the Special Second Class Magistrate, Tarikere, in Criminal Case No. 66 of 1930-31 on his - file, (Government of Mysore VS. Rama Rao) and to state that the Revision Petition has been filed yesterday.

I have the honor to be,
Sir,
Your most obedient servant,
M. Ramachandra Rao
Government Advocate.

H.

To

G. M.X B. with Compts for favour of putting up the file sent on 15.1.31.

x Sent to Genl. Secy. on 15/1/31.

TSD 21/1

24/1/31

I could not find the file was not received in the G.A.'s office.
24/1